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Linda Jacobson
RCRA Project Manager
US EPA Region VIII
8ENF-T
999 18th Street, Suite 300
Denver, Colorado 80202-2466

March 2, 2006

SENT BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

**CONSENT DECREE
CIVIL ACTION NO. CV 98-3-H-CCL
EAST HELENA SITE
WORK PERFORMED IN FEBRUARY 2006
PROGRESS REPORT #95**

Dear Ms. Jacobson:

On May 5, 1998, Asarco and the United States Environmental Protection Agency (EPA) entered into a Consent Decree (Decree) to further the objectives of the Resource Conservation and Recovery Act (RCRA) and the Clean Water Act (CWA). Section XI of the Decree (Reporting: Corrective Action) requires Asarco to submit certified monthly progress reports to EPA which discuss the actions taken by Asarco in achieving compliance with the Decree. The reports are to be submitted to EPA no later than the twentieth (20th) day of the following month. The following describes only those activities that have occurred or are related to projects performed during February 2006. The historical actions taken by Asarco in achieving compliance with the Decree are contained in previous monthly progress reports.

a. Describe the actions, progress, and status of projects which have been undertaken pursuant to Part VII of the Decree;

The Phase I RFI Site Characterization draft Report was submitted to EPA on April 1, 2003. On April 29, 2005, Asarco received EPA's finalized comments on the RFI draft report. On July 7, 2005, Asarco submitted responses to EPA's comments and provided the Phase I RFI Site Characterization revised report (July 2005). In a letter dated February 14, 2006, EPA found the responses and revised language to be acceptable and approved the Phase I RFI Site Characterization revised Report.

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On July 7, 2005, Asarco provided responses to EPA's April 26, 2005 comments on the Interim Measures Air Sparging Pilot Test Draft Summary Report (February 2005). In a February 14, 2006 letter, EPA found these responses to be generally adequate.

In a September 29, 2005 letter (received by Asarco on October 4, 2005), EPA notified Asarco of its decision to defer the development of the Phase II RFI/Risk Assessment Work Plan, which would include the risk assessment work plan. Instead, EPA recommended that future actions should focus on an evaluation of remedial actions to address the groundwater plumes emanating from the facility. By copy of this letter, EPA directed Asarco to amend the Interim Measures Work Plan to incorporate an evaluation of remedial measures that address groundwater arsenic issues. In a letter dated November 9, 2005, Asarco submitted the addendum to the Interim Measures Work Plan.

On February 7, 2006, a conference call between Asarco and EPA representatives took place to discuss the approach presented in the November 9, 2005 Work Plan with particular focus on groundwater interim measures that address source control in the former speiss granulating area. Potential interim measures suggested by EPA for this area included some form of containment barriers such as grout curtains or conventional slurry walls, capping over contaminated soils, and encapsulation using deep soil mixing with zero valent iron addition. Asarco has begun a preliminary evaluation to determine the cost for drilling boreholes in which bentonite and granulated iron would be mixed with existing soil in several array configurations. Asarco awaits EPA's written response to the November 9, 2005 Interim Measures Work Plan before proceeding with any detailed evaluation of EPA's suggested interim measures.

Asarco has retained Camp Dresser and McKee (CDM) and Hydrometrics to conduct an independent evaluation of pump and treat technology for treatment of groundwater in the former speiss granulating area. This program will be funded independent of the Environmental Trust Fund at an estimated cost of \$60,000. The Work Plan for this project will be submitted under separate cover. We welcome your participation in any aspect of the project and will share with you the project's final report. Asarco believes that this control option can potentially provide a cost effective and technologically sound solution. The preliminary ground water modeling portion of the study has been completed. Groundwater samples are scheduled to be collected in March 2006. Future activities include computer projections of treated groundwater and bench scale testing. If the results of these tests are favorable, Asarco will proceed to pilot scale test setup and construction, and pilot scale testing. Asarco anticipates pilot scale testing will be conducted in July and August 2006. The final report will summarize the study results, provide estimates the long-term effectiveness of the remedy, and calculated cost estimates for a pump and treat system.

On January 10, 2006, Asarco met with representatives of the Montana Department of Environmental Quality and the United States Environmental Protection Agency to discuss the strategy for completing its obligations under the Montana Decree, as well as existing decrees and orders with the EPA. During this meeting, Asarco presented its 2006 preliminary budget for addressing both the Montana Decree and USEPA RCRA Consent Decree obligations. On January 24, 2006, Asarco submitted its written proposal to address the Montana Decree obligations. A major component of Asarco's proposal includes construction of an on-site Corrective Action Management Unit (CAMU) - Phase 2 cell. In a February 16, 2006 meeting and February 17, 2006 letter, the Montana Department of Environmental Quality informed Asarco of its decision to defer to EPA any determination on the applicability of constructing the CAMU - Phase 2 cell. Asarco provided EPA a copy of the Department's February 17, 2006. Asarco has requested EPA's approval of the CAMU Phase 2 cell.

In a February 9, 2006 letter, EPA requested that Asarco provide future copies of letters, reports, and other documents relating to the 1998 RCRA Consent Decree to the Montana Department of Environmental Quality.

A summary of the correspondence transmitted as part of the East Helena Consent Decree in February 2006 is included in Attachment 1.

b. Identify any requirements under the Part VII of the Decree that were not completed in a timely manner, and problems or anticipated problem areas affecting compliance with the Decree;

There were no requirements that were not completed in a timely manner nor were there problems or anticipated problem areas that affect compliance with the Decree.

c. Describe projects completed during the prior month, as well as activities scheduled for the next month;

In accordance with the March 2000 Groundwater Source Control Interim Measures Design Analysis, Plans, and Specification report, the speiss handling area and the former acid plant sediment drying area are being inspected monthly with the last inspection occurring on February 7, 2006. This monthly inspection documented the condition of the interim measures within these two areas.

Phase III Sparge Testing – On February 3, 2005, Jon Nickel hand-delivered the Interim Measures Air Sparge Pilot Test Draft Summary Report to you. On April 28, 2005, Asarco received EPA's comments on the draft report. On July 7, 2005, Asarco submitted responses to EPA's comments on the Interim Measures Air Sparging Pilot Test Draft Summary Report. In a February 14, 2006 letter, EPA found these responses to be generally adequate except for the response regarding the evaluation of the radius of sparging influence.

CAMU Landfill - The construction of the CAMU landfill is complete. The Final Construction Report for the CAMU-Phase 1 Cell was hand-delivered to EPA on January 23, 2002. In accordance with the July 2000 CAMU Design Analysis Report (Operation and Maintenance Plan), the CAMU is being inspected monthly with the last inspection occurring on February 17, 2006. This monthly inspection documented the condition of the CAMU.

RCRA Facility Investigation (RFI) - The Phase I RFI Site Characterization draft Report was submitted to EPA on April 1, 2003. On April 29, 2005, Asarco received EPA's finalized comments on the draft RFI. On July 7, 2005, Asarco submitted 1) responses to EPA's comments and 2) the Phase I RCRA Facility Investigation (RFI) Site Characterization revised Report (July 2005). In a letter dated February 14, 2006, EPA found the responses and revised language to be acceptable and approved the Phase I RFI Site Characterization revised Report.

During March 2006, Asarco is scheduled to conduct the bi-monthly sampling of the four designated residential groundwater wells as prescribed in Asarco's ongoing Post Remedial Investigation (RI)/Feasibility Study (FS), Long Term Monitoring Program.

d. Describe, and estimate the percentage of, studies completed;

The original bench-scale testing program for the Phase III air sparge test is 100% complete. The testing has been expanded to include additional column tests. The additional testing is 100% complete. The sparge pilot test program is 100% complete. EPA has determined that the Interim Measures Air Sparging Pilot Test Draft Summary Report (submitted to EPA on February 3, 2005) and Asarco's responses to EPA's April 28, 2005 comments (submitted on July 7, 2005) are generally adequate.

The RFI groundwater modeling is 100% complete. The results of this modeling exercise have been included in the Phase I RFI Site Characterization draft Report.

The Interim Measures Work Plan Addendum (May 2002) and responses to EPA's July 1, 2002 comments are 100% complete.

The implementation (field investigations) of the Interim Measures Work Plan Addendum (May 2002, and its revisions) is 100% complete.

e. Describe and summarize all findings to date;

The details of past findings through January 2005 are described and summarized in previous monthly progress reports.

f. Describe actions being taken to address problems;

There were no actions taken to address problems associated with the Decree.

g. Identify changes in key personnel during the period;

Asarco continues to use the services of Asarco Consulting Incorporated and Hydrometrics Incorporated to perform the various activities required under the Consent Decree. The Consent Decree activities will continue to be administrated under the direction of Robert Miller.

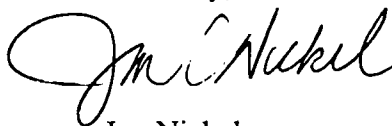
h. Include copies of the results of sampling and tests conducted and other data generated pursuant to work performed under Part VII of the Decree since the last Progress Report. Asarco may submit data that has been validated and confirmed by Asarco to supplement any prior submitted data. Updated validated and confirmed data shall be included with the RFI Report, if not delivered before;

One validation package, entitled "Validation Summary, Asarco East Helena Post RI/FS Long-Term Monitoring Project, Surface water, Groundwater, CAMU Wells, Semi-Annual Sampling Event, Inorganic Analyses, November 2005" is attached to this progress report.

i. Describe the status of financial assurance mechanisms, including whether any changes have occurred, or are expected to occur which might affect them, and the status of efforts to bring such mechanisms back into compliance with the requirements of this Decree.

ASARCO filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Bankruptcy Code in the Southern District of Texas on August 9, 2005. ASARCO hopes to use its chapter 11 bankruptcy proceeding to improve its financial position to the point where it can successfully reorganize and immerge from bankruptcy. ASARCO further hopes that at that time it will be in a position to make the required financial assurance demonstration.

Sincerely,

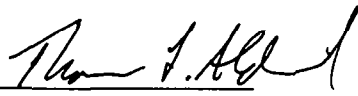
A handwritten signature in cursive script, appearing to read "Jon Nickel".

Jon Nickel

Cc: Denise A. Kirkpatrick, MDEQ (with complete data package)

CERTIFICATION
PURSUANT TO U.S. v ASARCO INCORPORATED
(CV-98-3-H-CCL, USDC, D. Montana)

I certify under penalty of law that this document, February 2006 Progress Report and all attachments, were prepared under my direct supervision in accordance with a system designed to assure that qualified personnel gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

Signature 
Name: Thomas L. Aldrich
Title: Vice President Environmental Affairs
Date: March 2, 2006

CONSENT DECREE
EAST HELENA SITE
FEBRUARY 2006 PROGRESS REPORT

SUMMARY OF CORRESPONDENCE
ATTACHMENT 1

DATE OF TRANSMITTAL	CORRESPONDENCE SENT FROM	CORRESPONDENCE SENT TO	SUBJECT	RESPONSE
Three Ring Binder (Enclosed with this Progress Report)	Tom Aldrich	Linda Jacobson	Validation Summary, Asarco East Helena, Post RI/FS Long- Term Monitoring Project Surface Water, Groundwater, and CAMU Wells, Semi-Annual Sampling Event, Inorganic Analyses, November 2005	No Formal Response Required

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